

**BEFORE THE JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION**

**In re: National Prescription
Opiate Litigation**

MDL No. 2804

[PROPOSED] SUGGESTION OF REMAND

City of Santa Fe v. Purdue Pharma, et al.,

Case No. 1:20-op-45137-DAP

(transferee court case no. 1:19-cv-01105 (D.N.M.); transferred to the MDL Court on March 30, 2020)

City of Albuquerque v. Teva Pharma. USA, Inc. et al.,

Case No. 1:20-op-45136-DAP

(transferee court case no. 1:19-cv-01168 (D.N.M.); transferred to the MDL Court on March 30, 2020)

REQUEST FOR EXPEDITED HEARING

The Judicial Panel on Multidistrict Litigation (“JPML”) transferred the above-listed actions to the undersigned for coordinated or consolidated pretrial proceedings. For the reasons stated below, and pursuant to Rule 10.1(b)(i) of the Rules of Procedure of the JPML, the undersigned transferee judge now suggests that this case be remanded to its respective transferor court. In addition, due to time constraints explained below, the undersigned respectfully requests an expedited ruling from the JPML.

REASONS FOR SUGGESTION OF REMAND

As the JPML is aware, the multidistrict litigation known as *In re: National Prescription Opiate Litigation* is complex. Unlike many MDLs, where the plaintiffs are individuals or businesses, most of the *Opiate* MDL Plaintiffs are governmental entities from across America—for example, Cities, Counties, and Indian Tribes. These Plaintiffs claim the defendants are directly

responsible for creating the nation's ongoing Opioid Crisis and they assert various claims to obtain damages and abatement.

REMAND

Plaintiffs, City of Albuquerque and City of Santa Fe, New Mexico ("Plaintiffs" or "Plaintiff Cities"), initially filed their respective lawsuits in state court, and their cases were removed to the United States District Court for the District of New Mexico. The Plaintiff Cities each moved to remand their case for lack of subject matter jurisdiction. Before the transferor court ruled on the Cities' motions for remand, the Panel transferred the case into the *Opiate* MDL where it has remained without a ruling on the jurisdictional issues in the Motion to Remand. To expedite coordinated proceedings, the *Opiate* MDL Court issued a moratorium on all substantive filings, including motions to remand. The undersigned respectfully requests that the Panel transfer the City of Albuquerque and the City of Santa Fe's cases to the transferor court so that jurisdiction may be determined without the risk of delaying the Plaintiff Cities' cases further, or risking delay of coordinated proceedings in the *Opiate* MDL.

REQUEST FOR EXPEDITED RULING

For the just and efficient handling of both the Plaintiff Cities' cases and the *Opiate* MDL, the undersigned respectfully requests an expedited ruling on the suggestion of remand. The transferor court's ruling on jurisdiction should return the Plaintiff Cities' cases to state court, avoiding undue prejudice and delay.

CONCLUSION

For all the reasons stated above, the undersigned concludes that the handling of the *Opiate* MDL and City of Albuquerque and City of Santa Fe's cases will best be served by immediate remand to the transferor court.

The undersigned appreciates the JPML's timely consideration of this matter and is available to provide the JPML any additional information it may wish in support of this suggestion.

Respectfully Submitted,

DAN AARON POLSTER
UNITED STATES DISTRICT JUDGE
(MDL TRANSFEREE COURT)

PROPOSED ORDER SUBMITTED BY:

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CERTIFICATE OF SERVICE

I hereby certify that on July 25, 2020, a copy of the foregoing document was served on all counsel of record listed below via the Court's ECF system and/or via U.S. Mail.

/s/ Matthew R. McCarley
Matthew R. McCarley